

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Gtek Computers & Wireless L.L.C.)	WC Docket No. 06-122
Request for Review and Contingent)	
Request for Waiver)	

To: The Commission

REQUEST FOR REVIEW AND CONTINGENT REQUEST FOR WAIVER

Gtek Computers & Wireless L.L.C. (“Gtek”), by its attorneys and pursuant to Sections 1.3 and 54.719 of the Commission’s Rules, hereby seeks review of the denial (the “Denial”) by the Universal Service Administrative Company (“USAC”) of Gtek’s appeal for cancellation of sanctions, interest and penalties (the “Sanctions”) in the amount of \$26,144.46 imposed for Gtek’s alleged failure to file FCC Form 499-A for years 2010-2015.¹ USAC’s levying of the Sanctions was improper and erroneous. Gtek is a systems integrator that derives less than five percent of its revenues from the resale of telecommunications. Gtek, accordingly, qualifies for the Commission’s systems integrator exemption and thus was not required to file FCC Form 499-A or to contribute directly to the Universal Service Fund or other telecommunications funding mechanisms (collectively, “USF”). To the extent the Commission nevertheless believes that the Sanctions are warranted, Gtek respectfully requests waiver in light of its reasonable reliance on the Form 499-A Instructions and the Commission’s longstanding systems integrator

¹ On August 17, 2016, USAC denied Gtek’s appeal of a \$3800.00 sanction and informed Gtek that it “must seek relief directly from the Commission.” See e-mail from USAC to Rainer Gleinig dated August 17, 2016, attached as Exhibit A hereto. On August 22, 2016, USAC issued an additional sanction of \$22,300.00 and \$44.46 in “Interest and DCIA Penalties.” USAC, Invoice Number UBDI0000863123, attached as Exhibit B hereto; *see also* USAC, Invoice Number UBDI0000846007, included with Exhibit B hereto. As of the date of this filing, Gtek’s alleged total USAC balance is \$26,144.46. *Id.* While Gtek has not appealed to USAC the August 22 additional sanction, such appeal is not necessary. See USAC, Appeals and Audits, *available at* <http://www.usac.org/about/about/program-integrity/appeals.aspx>. (“Parties seeking a waiver of FCC rules (i.e., late payment fees, waiver of form deadlines, etc.) should file an appeal directly with the FCC because USAC cannot waive FCC rules”). Gtek seeks reversal of the entirety of the Sanctions.

exemption policy, and the fact that the Sanctions amount would exceed the amount of any revenues Gtek received from its provision of interconnected VoIP (“VoIP”) service to the public.

Background

Gtek provides fixed wireless Internet access service to approximately 5,500 residences and businesses in the Coastal Bend area of Texas, and onsite support. Since 2010, Gtek offered VoIP as an ancillary service for its customers who need it. Gtek, as a systems integrator, has during the period in question “provide[d] integrated packages of services and products that . . . include[d] the provision of computer capabilities, interstate telecommunications services . . . telecommunications and computer equipment, equipment maintenance, help desk functions, and other services and products.”² As a systems integrator, Gtek is a “non-facilities-based, non-common carrier[].”³

Gtek derives significantly less than five percent of its revenue from the provision of telecommunications. For example, in calendar year 2015, telecommunications revenue accounted for only 0.49% of Gtek’s total revenue. This was the highest percentage Gtek ever derived from VoIP. In 2010, the first year Gtek provided VoIP, VoIP revenue accounted for only 0.09% of the total. Clearly, Gtek’s “provision of telecommunications is incidental to [its] core business.”⁴ Gtek squarely meets the systems integrator exemption.

Further, for each of the subject years, Gtek’s total revenues from the provision of VoIP ranged from a low of approximately \$1,000 in 2010 to a high of approximately \$18,000 in 2015.

² *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 5318, 5468 n. 793 (1997) (“*Universal Service R&O*”).

³ *Id.*

⁴ *Id.* at 5472.

These total revenues, only a portion of which were interstate, do not come close to the threshold by which Gtek would be required to make contributions to USF.⁵

Discussion

Systems integrators are categorically exempt from filing Form 499-A if they fall below the five percent revenue threshold for resale of telecommunications. The 2016 Telecommunications Reporting Worksheet Instructions for Form 499-A (the “Instructions”) state that telecommunications providers are generally required to file Form 499-A, but that there are exceptions. The Instructions state:

Three types of non-common-carrier telecommunications providers may . . . not be required to contribute to USF: (1) de minimis telecommunications providers; (2) government, broadcasters, schools, and libraries; and (3) *systems integrators*....⁶

The Instructions further define the “exception for systems integrators:”

Systems integrators that derive less than five percent of their systems integration revenues from the resale of telecommunications *are not required to file or contribute directly to universal service*.⁷

The Instructions are not ambiguous. Certain classes of telecommunications providers are not required to file Form 499-A. One category is systems integrators, who “are not required to file” if they fall below the five percent threshold.⁸ Gtek is a systems integrator that derives less than five percent of its revenues from the resale of telecommunications. Gtek, therefore, is exempt from filing Form 499-A and cannot be liable for the Sanctions.

USAC provided no explanation for the Sanctions. It merely dismissed Gtek’s appeal as one for “a waiver of the Federal Communications Commission (FCC or Commission) rules

⁵ Gtek inadvertently filed the Forms 499-A due to a mistaken understanding of the forms. After USAC issued the Sanctions, Gtek obtained the assistance of legal counsel who clarified the systems integrator exemption.

⁶ Instructions at 6.

⁷ *Id.* at 7 (emphasis added).

⁸ *Id.*

governing the assessment of late filing fees” and told Gtek to seek relief from the Commission.⁹

Gtek surmises, however, that the Sanctions were imposed due to USAC’s erroneous interpretation of the systems integrator exemption. USAC apparently believes that systems integrators that offer ancillary VoIP services are required to file Form 499-A, despite the fact that systems integrators are categorically exempt from filing, and even where revenues from the provision of interconnected VoIP is *de minimis*. USAC has previously stated that

meeting the . . . systems integrator exception in the FCC Form 499-A instructions for contributing to the universal service support mechanisms does not negate the requirement of all providers of interconnected VoIP to file the form. In other words, although under the systems integrator exception, NextMetro, LLC is not required to contribute to the universal service support mechanisms, as an interconnected VoIP provider, the FCC has indicated that it still must file an annual FCC Form 499-A.¹⁰

USAC is simply incorrect. Despite USAC’s conclusory assertion to the contrary, the FCC has *not* “indicated” that exempt systems integrators that derive less than five percent of their revenues from the resale of VoIP services “still must file an annual FCC Form 499-A.” The opposite is true. The Instructions plainly state, without exception or qualification, that systems integrators that derive less than five percent of their revenues from the resale of telecommunications “*are not required to file or contribute directly to universal service.*”¹¹ Moreover, the Commission’s order adopting the systems integrator exemption stated, again without exception or qualification, that

a systems integrator *would not be required to file a Universal Service Worksheet* if, over the requisite reporting period, its total revenues derived from

⁹ USAC Letter, copy attached as Exhibit B hereto.

¹⁰ *NextMetro, LLC d/b/a BroadAspect*, WC Docket No. 06-122, Exhibit C, *request for review pending* (attached hereto as Exhibit C).

¹¹ Instructions at 7 (emphasis added).

telecommunications represent less than five percent of its total revenues derived from systems integration.¹²

The *Universal Service R&O* and the Instructions leave no doubt that the systems integrator exemption is exactly that: a categorical exemption for systems integrators that fall under the five percent revenue standard. The Instructions do not state that the systems integration exemption applies only to a subclass of systems integrators that offer “legacy”-type telecommunications, and do not make reference at all to different requirements if a potential filer provides more than one category of telecommunications service. A systems integrator that offers ancillary VoIP no more becomes an “interconnected VoIP provider” for Form 499-A and USF purposes than a systems integrator that offers “legacy” telecommunications becomes a “telecommunications provider” with such obligations.

For USF purposes, the Commission treats VoIP as it does other telecommunications. VoIP providers contribute to USF, Telecommunications Relay Services, North American Numbering Plan Administration, and Local Number Portability. USAC’s apparent attempt to pigeonhole the systems integrator exemption to those systems integrators that resell only “legacy”-type products is entirely contrary to the Commission’s policy for telecommunications funding mechanisms and its overall regulation of VoIP providers. It is also contrary to the Commission’s intent in enacting the systems integrator exemption, which was to exempt from the burdens of filing Form 499-A and paying into USF those systems integrators that “do not significantly compete with common carriers that are required to contribute to universal service.”¹³

Cancelling the Sanctions will have no effect, adverse or otherwise, on USF. Gtek is not required to pay into USF, nor did it fail to contribute to USF at any time during the period in

¹² *Universal Service R&O*, 13 FCC Rcd at 5473 (emphasis added).

¹³ Gtek notes that when the systems integrator exemption was adopted, the intent was for exemption to apply to all regulated communications services resold by systems integrators. *Universal Service R&O*, 13 FCC Rcd at 5472-75.

question. Gtek's only purported "failure," which Gtek disputes, was in not filing a standardized worksheet in which it would have declared its exemption from making any USF contribution whatsoever, given both its *de minimis* systems integration revenues and its *de minimis* interconnected VoIP revenues. Even assuming arguendo that Gtek should have filed Forms 499-A for the period in question, imposing Sanctions of \$26,144.46, *an amount that exceeds the entirety of Gtek's annual VoIP revenue*, does nothing to benefit USF and is inequitable and punitive. It also provides a significant incentive for Gtek to cease providing VoIP service to the public, a result that would contravene the public interest through the regulated elimination of a marketplace competitor.

To the extent necessary, Gtek seeks a waiver of Sections 54.711 and 54.713 of the Commission's Rules.¹⁴ Gtek reasonably relied on the Instructions, which clearly state that systems integrators are not required to submit Form 499-A if they fall under the five-percent revenue threshold. The Instructions do not make exception for providers of interconnected VoIP, something the Commission could easily have done if its intention was to require the filing of the form by providers that are both systems integrators and VoIP providers. Even so, Gtek's total contributions, as both a systems integrator and VoIP provider, would be *zero dollars* over the course of the entire Sanctions period. As it now stands, the amount of the Sanctions would exceed the total revenue that Gtek has earned from its provision of VoIP service from 2010-2015. The Commission should not elevate form over substance and impose a penalty that would put Gtek in a worse position than if it had never offered VoIP service to the public as a competitive alternative.

¹⁴ The Commission may waive its rules for good cause shown, and a waiver is appropriate where circumstances warrant a deviation from the rule and such deviation will serve the public interest. *See WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

If USAC wishes for the Commission to change the systems integrator policy to one that exempts only a certain subclass of systems integrators, the Commission will need to initiate the proper rulemaking procedures or, at a minimum, to revise the Instructions to state clearly that systems integrators that provide ancillary VoIP services below the five percent revenue threshold must file Form 499-A, despite the fact that they are systems integrators. If the Instructions are erroneous and systems integrators like Gtek are, in fact, required to file Form 499-A, the Instructions must be corrected.¹⁵ Gtek and other systems integrators cannot be held responsible for their reasonable reliance on what USAC and/or the Commission may consider errors in the Instructions.

Conclusion

For the reasons set forth herein, the Commission should reverse USAC's Denial and cancel the Sanctions, including any interest accrued.

Respectfully submitted,

GTEK COMPUTERS AND WIRELESS L.L.C.

By: /s/

Stephen E. Coran

F. Scott Pippin

Lerman Senter PLLC

2001 L Street, NW, Suite 400

Washington, DC 20036

(202) 416-6744

Counsel to Gtek Computers & Wireless L.L.C.

September 16, 2016

¹⁵ See *McElroy Elecs. Corp. v. FCC*, 990 F.2d 1351, 1366 (D.C. Cir. 1993) ("imprecision collide[s] with the Commission's responsibility. . . of issuing intelligible orders. This responsibility. . . [is] highlighted by a presidential directive instructing each agency to take steps to eliminate drafting errors and needless ambiguity. . . .") (internal quotations and citations omitted).

CERTIFICATE OF SERVICE

I, Genevieve F. Edmonds, hereby certify that on this 16th day of September, 2016, a copy of the foregoing Request for Review and Contingent Request for Waiver has been sent via First Class, U.S. Mail, postage prepaid and by email, to the following:

Universal Service Administrative Co.
Billing, Collections, and Disbursements
Attn: Letter of Appeal
700 12th Street, NW, Suite 900
Washington, DC 20005
Email: form499@usac.org

/s/
Genevieve F. Edmonds

Exhibit A

E-mail from USAC to Rainer Gleinig dated August 17, 2016

From: **Form499** <form499@usac.org>
Date: Wed, Aug 17, 2016 at 1:38 PM
Subject: Your Appeal With USAC
To: "rainer@gtekcommunications.com" <rainer@gtekcommunications.com>

Dear Mr. Gleinig,

The Universal Service Administrative Company (USAC) has completed its evaluation of the appeal you submitted on behalf of GTek Computers & Wireless L.L.C. (Filer ID 831535) (GTek), received on June 13, 2016 (attached). In the appeal, you request that USAC waive the late filing fees of \$3,800 associated with the company's 2014 and 2015 FCC Forms 499-A, which appeared on the May 2016 invoice "[b]ecause we did not intentionally fail to file our Form 499-As" and only "recently became aware of the need to file the Form 499-A, despite our systems integrator status."^[1] You also note that you "easily fit under the 5% systems integrator exemption" and that the Voice over Internet Protocol (VoIP) revenue you generate only makes up a small percentage of your total revenue.^[2]

USAC has reviewed your appeal and the facts related to this matter and determined that because your appeal seeks a waiver of the Federal Communications Commission (FCC or Commission) rules governing the assessment of late filing fees, pursuant to FCC rules, GTek must seek relief directly from the Commission, not USAC. Therefore, USAC hereby dismisses your appeal.

USAC will consider this matter closed unless you notify us within 30 days from the date of this email and provide a detailed explanation of any issues you believe remain outstanding. If you wish to appeal this decision to the FCC, you may file an appeal pursuant to the requirements of 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at the bottom of the page at this link:

<http://www.usac.org/cont/payers/billing-disputes/appeals.aspx>

Please let us know if you have any additional questions and/or concerns.

Regards,

USAC

^[1] Letter from Rainer R. Gleinig, CEO, GTek Computers & Wireless L.L.C., to USAC (June 13, 2016) (*Appeal*).

² *Id.*

Exhibit B

USAC Invoices



Filer 499 ID: 831535
Invoice Number: UBDI0000863123
Statement Date: 08/22/2016
New Balance: \$ 26,144.46
Payment Due Date: 09/15/2016
Amount Enclosed:

Gtek Computers & Wireless L.L.C.
 Attention: Ramsey Gleinig
 4111 FM 2986,
 Portland, TX, 78374

Mail Payment To:

Universal Service Administrative Company
PO Box 105056
Atlanta, GA 30348-5056

Address Change? See reverse side for instructions.

☐ If paying for multiple Filer 499 IDs, please check here and complete form on back.

Send top portion of statement with payment in enclosed envelope. Keep bottom portion for your records.

STATEMENT OF ACCOUNT

Date	Description	Charges	Credits
	Previous Balance	\$3,800.00	
08/15/2016	Interest & DCIA Penalties	\$44.46	
08/15/2016	Late Filing Sanction	\$22,300.00	
TOTAL OUTSTANDING USAC BALANCE AS OF 8/15/2016		\$26,144.46	

Transactions occurring after 08/15/2016 are not reflected on this statement.

Under the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) (DCIA), your BALANCE DUE is a demand that you pay a DEBT owed to the United States on or before the DUE DATE. If the DUE DATE is non-business day, payment must be received the business day before that date. Any portion of the DEBT unpaid after the DUE DATE is a DELINQUENT DEBT, which may result in sanctions, including interest, penalties, and administrative charges. Failure to file a Telecommunications Worksheet may result in a late filing fee DEBT added to your BALANCE DUE. **Read the reverse of this Invoice for important information about those sanctions and your legal rights and obligations.**

Statement Date	Invoice Number	Filer 499 ID	Balance Due USAC
08/22/2016	UBDI0000863123	831535	\$ 26,144.46
FORM 499Q DATA This month's support mechanism charges were calculated using an FCC contribution factor of 0.179000 and the following revenue data: <div style="margin-left: 40px;"> <u>May 2016 499Q</u> 120b \$0.00 120c \$0.00 If the figures do not correspond with your records, please contact USAC Customer Service at 888-641-8722 </div>		PAYMENT INFORMATION All payments received (regardless of specific instructions) will be applied to your outstanding USAC balance in historical order as outlined in FCC order 07-150. Please remit ACH payments in a CCD+ format to ABA #071000039, Account #5590045653. All Wire Transfers should be sent to ABA #026009593, DDA (or Account) #5590045653. Payments must include your Company Name, Filer 499 ID, and Invoice Number to ensure timely posting.	



Filer 499 ID: 831535
Invoice Number: UBDI0000863123
Statement Date: 08/22/2016

DETAILED SUMMARY OF CHARGES AND CREDITS

SUPPORT MECHANISM CHARGES

Your monthly support mechanism charges were calculated according to the following formulas:

Quarterly Contribution Base

The quarterly contribution base is a portion of your quarterly revenue that USAC considers when determining your quarterly Universal Service Fund contribution. The quarterly contribution base equals your interstate plus international revenue. Your current quarterly contribution base equals:

$$\frac{\$ 0.00}{\text{Interstate Revenue (Line 120B)}} + \frac{\$ 0.00}{\text{International Revenue (Line 120C)}} = \frac{\$ 0.00}{\text{Quarterly Contribution Base}}$$

Adjusted Quarterly Contribution

USAC adjusts carriers' quarterly contribution bases by the amount that they are expected to contribute in that quarter. The calculation for an adjusted contribution amount is as follows, and takes into account the circularity deduction:

$$\frac{\$ 0.00}{\text{Quarterly Contribution Base}} * \frac{0.179000}{\text{FCC Contribution Factor}} = \frac{\text{Unadjusted Contribution}}{\text{Unadjusted Contribution}} - \left(\frac{\text{Unadjusted Contribution}}{\text{Unadjusted Contribution}} * \frac{0.153244}{\text{FCC Circularity Factor}} \right) = \frac{\text{Adjusted Contribution}}{\text{Adjusted Contribution}}$$

De Minimis Eligibility

Carriers whose expected annual contribution is less than \$10,000 are considered de minimis and are exempted from paying into the Universal Service Fund. To be exempt, a carrier must meet the de minimis criteria on both the current 499A and 499Q forms.

You meet the de minimis criteria on both the 499A and the current 499Q. Therefore, you are eligible for the de minimis exemption during the current quarter.

Your eligibility was calculated using the contribution factors established by the FCC for determining de minimis status on each form:

499A:

$$\frac{\text{499A Contribution Base}}{\text{499A Contribution Base}} * \frac{0.158000}{\text{FCC Estimated Annual Factor}} = \frac{\text{Estimated 499A Contribution}}{\text{Estimated 499A Contribution}}$$

499Q:

$$\frac{\text{Adjusted Contribution}}{\text{Adjusted Contribution}} * 4 = \frac{\text{Estimated 499Q Contribution}}{\text{Estimated 499Q Contribution}}$$

For more information on the FCC estimated annual factor, please see the Form 499A Instructions. For more information on the current FCC contribution factor, visit the FCC website at www.fcc.gov.

Support Mechanism Charges

Your total monthly contribution is determined by multiplying one-third of your adjusted quarterly contribution base by the current quarter's FCC contribution factor.

$$\frac{1/3}{1/3} * \frac{\text{Adjusted Quarterly Contribution}}{\text{Adjusted Quarterly Contribution}} = \frac{\text{Total Monthly Contribution}}{\text{Total Monthly Contribution}}$$



Filer 499 ID: 831535
Invoice Number: UBDI0000863123
Statement Date: 08/22/2016

LATE FILING SANCTION

A late filing fee (described on the reverse of the invoice) may be imposed for failing to file a Worksheet (Form 499-Q or 499-A). That late filing fee is the greater of \$100 per month or an amount computed using the rate of the U.S. prime rate (in effect on the date the applicable Worksheet is due) plus 3.5 percent multiplied against the filer's monthly contribution obligation as determined by the Administrator. The fee, included in the BALANCE DUE is a DELINQUENT DEBT if not paid, and subject to COLLECTION ACTION. The reverse of the Invoice provides more information.

Filing - Due Date A	Monthly USF Obligation B	Filing Received Date C	Rate D	Days/Months Delinquent E	Additional Sanction Amount F	Accrued Sanction Amount G	Total Sanction Amount (F + G) H
Apr 13 499A - 4/1/2013	NA	04/29/2016	100.00/mo	37 MONTH(S)	\$3,700.00	\$0.00	\$3,700.00
Apr 12 499A - 4/2/2012	\$0.22	05/04/2016	100.00/mo	50 MONTH(S)	\$5,000.00	\$0.00	\$5,000.00
Apr 11 499A - 4/1/2011	\$0.10	05/04/2016	100.00/mo	62 MONTH(S)	\$6,200.00	\$0.00	\$6,200.00
Apr 10 499A - 4/1/2010	\$0.09	05/04/2016	100.00/mo	74 MONTH(S)	\$7,400.00	\$0.00	\$7,400.00
TOTAL					\$22,300.00	\$0.00	\$22,300.00



Filer 499 ID: 831535
Invoice Number: UBDI0000863123
Statement Date: 08/22/2016

Interest & DCIA Penalties

A DELINQUENT DEBT incurs interest at the annual rate equal to the U.S. prime rate as of the DATE OF DELINQUENCY plus 3.5 percent from that DATE until the DEBT is paid in full. Any portion of the DEBT unpaid more than 90 days, incurs a penalty of 6 percent a year from the DATE OF DELINQUENCY. The reverse of the Invoice provides more information on interest, penalties, and administrative charges.

Description - Debt Due Date	Principal	Payment/ Credit Date	Interest Rate	Days Late	Additional Interest (B* (D/365)*E)	Accrued Interest	Total Interest (F+G)	Payment & Credits Applied	Interest Outstanding	Principal Outstanding
A	B	C	D	E	F	G	H	I	J	K
Outstanding Items										
UBDI0000846007 - 6/15/2016	\$3,800.00		7.00%	61	\$44.46	\$0.00	\$44.46		\$44.46	\$3,800.00
UBDI0000863123 - 9/15/2016	\$22,300.00		0.00%	0	\$0.00	\$0.00	\$0.00		\$0.00	\$22,300.00
					\$44.46			\$0.00	\$44.46	\$26,100.00
								Principal Outstanding		\$26,100.00
								Interest & Penalties		\$44.46
								Total Amount Due		\$26,144.46



Filer 499 ID: 831535
Invoice Number: UBDI0000846007
Statement Date: 05/20/2016
New Balance: \$ 3,800.00
Payment Due Date: 06/15/2016
Amount Enclosed:

Gtek Computers & Wireless L.L.C.
 Attention: Ramsey Gleinig
 4111 FM 2986,
 Portland, TX, 78374

Mail Payment To:

Universal Service Administrative Company
 PO Box 105056
 Atlanta, GA 30348-5056

Address Change? See reverse side for instructions.

☐ If paying for multiple Filer 499 IDs, please check here and complete form on back.

Send top portion of statement with payment in enclosed envelope. Keep bottom portion for your records.

STATEMENT OF ACCOUNT

Date	Description	Charges	Credits
	Previous Balance		\$0.00
05/13/2016	Late Filing Sanction	\$3,800.00	
TOTAL OUTSTANDING USAC BALANCE AS OF 5/13/2016		\$3,800.00	

Transactions occurring after 05/13/2016 are not reflected on this statement.

Under the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) (DCIA), your BALANCE DUE is a demand that you pay a DEBT owed to the United States on or before the DUE DATE. If the DUE DATE is non-business day, payment must be received the business day before that date. Any portion of the DEBT unpaid after the DUE DATE is a DELINQUENT DEBT, which may result in sanctions, including interest, penalties, and administrative charges. Failure to file a Telecommunications Worksheet may result in a late filing fee DEBT added to your BALANCE DUE. Read the reverse of this Invoice for important information about those sanctions and your legal rights and obligations.

Statement Date	Invoice Number	Filer 499 ID	Balance Due USAC
05/20/2016	UBDI0000846007	831535	\$ 3,800.00
FORM 499Q DATA This month's support mechanism charges were calculated using an FCC contribution factor of 0.179000 and the following revenue data: <u>February 2016 499Q</u> 120b 120c If the figures do not correspond with your records, please contact USAC Customer Service at 888-641-8722		PAYMENT INFORMATION All payments received (regardless of specific instructions) will be applied to your outstanding USAC balance in historical order as outlined in FCC order 07-150. Please remit ACH payments in a CCD+ format to ABA #071000039, Account #5590045653. All Wire Transfers should be sent to ABA #026009593, DDA (or Account) #5590045653. Payments must include your Company Name, Filer 499 ID, and Invoice Number to ensure timely posting.	

**IMPORTANT LEGAL INFORMATION ABOUT YOUR ACCOUNT
AND YOUR RIGHTS AND OBLIGATIONS**

1. **DEMAND FOR PAYMENT, DUE DATE & DELINQUENCY.** Under 31 U.S.C. § 3701, C.F.R. § 901.2 and 47 C.F.R. § 1.1911, this is a First Demand for Payment of your **BALANCE DUE**, which is a DEBT owed to the United States. Any portion of that amount unpaid after the **PAYMENT DUE DATE** (i.e., the **DATE OF DELINQUENCY**) is a **DELINQUENT DEBT** for which USAC and the FCC may take **COLLECTION ACTION** against you as a **DELINQUENT DEBTOR**. Under 31 U.S.C. § 3717, we will assess interest, penalties and administrative charges (below), from the **DATE OF DELINQUENCY**, and if the DEBT remains delinquent, we will refer the matter to the Secretary of the Treasury (Treasury) or the Department of Justice (Justice). **COLLECTION ACTION** may also include judicial enforcement by Justice and/or administrative action by the FCC or Treasury, e.g.: administrative offset, denial of certain federal benefits, and/or referral to private collection attorneys, any or all of which may incur additional charges. Under 31 U.S.C. § 3716, the United States may collect the debt by administrative offset. In addition, the USAC and the FCC will withhold action on any pending application (Red Light) made by a **DELINQUENT DEBTOR**, and the delinquency will be reported to credit-reporting agencies. You may learn more about the DCIA by reading 31 U.S.C. §§ 3701, 3711, 3716, 3717, and 3720B, the Federal Claims Collection Standards (e.g., 31 C.F.R. § 900.1, *et seq.*), and 47 C.F.R. § 1.1901, *et seq.*

2. **RECORD REQUEST.** If you believe the amount of the **BALANCE DUE** is in error, you may ask to inspect, or for USAC to review, the records relevant to this invoice, by submitting, **within 15 days of this invoice date**, a written request for inspection or review specifying the nature of the error(s) to **CUSTOMER SERVICE**. If you wish to appeal this invoice, you may file an appeal within 60 days of the statement date on the invoice pursuant to the requirements of 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at <http://www.usac.org/cont/about/program-integrity/appeals.asp>

3. **PAYMENT PLAN.** If you are unable to pay the **BALANCE DUE** in full, you may request a written payment plan agreement, the terms of which will require interest and administrative charges.

4. **CONSEQUENCES IF YOU DO NOT PAY THE FULL BALANCE DUE.** A failure to submit payment may result in sanctions, including, but not limited to, administrative or judicial proceedings to recover the **DELINQUENT DEBT**, and all accrued administrative charges, penalties, and interest, as set forth below.

INTEREST, PENALTIES, AND CHARGES. Interest at the annual rate equal to the U.S. prime rate as of the **DATE OF DELINQUENCY** plus 3.5 percent accrues from that **DATE** until the DEBT is paid in full. This interest rate incorporates administrative charges of collection pursuant to 47 C.F.R. § 54.713. Moreover, a penalty of 6 percent a year accrues on any part of the DEBT that is more than 90 days **DELINQUENT**. If the DEBT remains unpaid, the full amount of the **DELINQUENT DEBT**, plus accrued interest and penalties, may be transferred to the Treasury or Justice for **COLLECTION ACTION**, and you will be required to pay the administrative costs of processing and handling a **DELINQUENT DEBT** as set by the Treasury (currently 28 percent of the debt). However, if you pay the full amount of the **DELINQUENT DEBT** and associated administrative fees within 30 days of the due date, the interest will be waived. These requirements are set out at 31 U.S.C. § 3717.

5. **LATE FILING FEES FOR INCOMPLETE OR LATE-FILED WORKSHEETS.** Telecommunications Reporting Worksheet (Worksheet) Forms 499-Q or 499-A must be received on Feb 1, Apr 1 (499-A), May 1, Aug 1, and Nov 1. A Worksheet not received when due is **DELINQUENT**, and if more than 30 days **DELINQUENT**, USAC will assess a **LATE FILING FEE** equal to the greater of \$100 per month or an amount computed using the rate of the U.S. prime rate (in effect on the date the applicable Worksheet is due) plus 3.5 percent applied to the amount due per an invoice calculated by USAC. The **LATE FILING FEE** will be included in the **BALANCE DUE**. Any portion of the **LATE FILING FEE** unpaid after the **DUE DATE** will be **DELINQUENT** and subject to DCIA procedures discussed above, including **INTEREST, PENALTIES, and CHARGES**.

If you fail to file your Worksheet and to pay your contribution, interest will accrue on the greater amount due from the earliest date of the failure to file or to pay your contribution.

Payment for Multiple 499 Filer IDs

If paying for more than one Filer 499 ID, complete the form at (<http://www.usac.org/tres/documents/cont/pdf/payments/USACPaymentIdentificationForm.pdf>) and submit one copy with the payment coupon(s) for each ID. You may not apply a credit balance from one Filer 499 ID to pay a balance due on another Filer 499 ID. If you are submitting an electronic payment, please send your worksheet by fax or e-mail to **CUSTOMER SERVICE**.

	Filer 499 ID	Invoice Number	Amount
1			\$
2			\$
3			\$
4			\$
5			\$
TOTAL AMOUNT			\$

The Total Amount must equal the total of all checks submitted.

NOTE: By using this worksheet, you certify that payment made on behalf of another filer is in consideration of fair value on behalf of the payer, and the funds will not be reallocated, reapplied, or returned in the event of insolvency or bankruptcy.

How to Make Payments

Include the company name, filer 499 ID, and invoice number with all payments to avoid late payment charges and FCC Red Light action.

Make checks payable to:

USAC, P.O. Box 105056, Atlanta, GA 30348-5056

Address payments sent by an overnight mail service to:

USAC, c/o Bank of America (105056), 1075 Loop Road, Atlanta, GA 30337: (404) 209-6377.

Electronic payments:

Please remit ACH payments in a CCD+ format to ABA #071000039, DDA (or Account) #5590045653.

All Wire Transfers should be sent to ABA #026009593, DDA (or Account) #5590045653. U.S. Dollar & Foreign Currency Wire Transfers should use SWIFT code and address of BFAUS3N.

Change of Invoice Billing Address

To change your USAC invoice billing address, send **CUSTOMER SERVICE** (below) your written request on company letterhead signed by a company officer with a revised FCC Form 499 (<http://www.usac.org/about/tools/forms.asp>).

Change of Address for Disbursements and Remittances

To change your disbursement or remittance information address, send USAC, FCC Form 498, 2000 L Street, NW, Suite 200, Washington, DC 20036, your written request on company letterhead signed by a company officer with a completed a Form 498 (<http://www.usac.org/about/tools/forms.asp>).

CUSTOMER SERVICE will respond to matters involving:

- Universal Service Fund invoices (including change of address and errors)
- USAC disbursements (remittances, checks and ACHs)
- Form 498 and SPIN issues
- FCC Form 499 and revenue reporting issues.

Contact **CUSTOMER SERVICE** at:

USAC Billing and Disbursement
2000 L Street, NW
Suite 200
Washington, DC 20036

Phone: (888) 641-8722
Fax: (888) 637-6226
E-mail: customersupport@usac.org
Web: www.usac.org



Filer 499 ID: 831535
 Invoice Number: UBDI0000846007
 Statement Date: 05/20/2016

DETAILED SUMMARY OF CHARGES AND CREDITS

SUPPORT MECHANISM CHARGES

Your monthly support mechanism charges were calculated according to the following formulas:

LIRE Eligibility

If a carrier's quarterly interstate revenue equals less than 12.00% of their combined quarterly interstate and international revenue, the carrier is eligible for the Limited Interstate Revenue Exemption (LIRE). Based on your 499Q data, your interstate revenue equals _____ percent of your combined interstate and international revenue. Therefore, you are eligible for the LIRE exemption. As a result, your international revenue will not be used in determining your quarterly contribution base.

Quarterly Contribution Base

The quarterly contribution base is a portion of your quarterly revenue that USAC considers when determining your quarterly Universal Service Fund contribution. The quarterly contribution base equals your interstate plus international revenue. Your current quarterly contribution base equals:

$$\frac{\text{Interstate Revenue (Line 120B)}}{\text{Interstate Revenue (Line 120B)}} + \frac{\text{International Revenue (Line 120C)}}{\text{International Revenue (Line 120C)}} = \frac{\text{Quarterly Contribution Base}}{\text{Quarterly Contribution Base}}$$

Adjusted Quarterly Contribution

USAC adjusts carriers' quarterly contribution bases by the amount that they are expected to contribute in that quarter. The calculation for an adjusted contribution amount is as follows, and takes into account the circularity deduction:

$$\begin{aligned} & \frac{\text{Quarterly Contribution Base}}{\text{Quarterly Contribution Base}} * \frac{0.179000}{\text{FCC Contribution Factor}} = \frac{\text{Unadjusted Contribution}}{\text{Unadjusted Contribution}} \\ & \frac{\text{Unadjusted Contribution}}{\text{Unadjusted Contribution}} - \left(\frac{\text{Unadjusted Contribution}}{\text{Unadjusted Contribution}} * \frac{0.153228}{\text{FCC Circularity Factor}} \right) = \frac{\text{Adjusted Contribution}}{\text{Adjusted Contribution}} \end{aligned}$$

De Minimis Eligibility

Carriers whose expected annual contribution is less than \$10,000 are considered de minimis and are exempted from paying into the Universal Service Fund. To be exempt, a carrier must meet the de minimis criteria on both the current 499A and 499Q forms.

You meet the de minimis criteria on neither the 499A or the current 499Q. Therefore, you are not eligible for the de minimis exemption during the current quarter.

Your eligibility was calculated using the contribution factors established by the FCC for determining de minimis status on each form:

499A:

$$\frac{\text{499A Contribution Base}}{\text{499A Contribution Base}} * \frac{0.152000}{\text{FCC Estimated Annual Factor}} = \frac{\text{Estimated 499A Contribution}}{\text{Estimated 499A Contribution}}$$

499Q:

$$\frac{\text{Adjusted Contribution}}{\text{Adjusted Contribution}} * 4 = \frac{\text{Estimated 499Q Contribution}}{\text{Estimated 499Q Contribution}}$$

For more information on the FCC estimated annual factor, please see the Form 499A Instructions. For more information on the current FCC contribution factor, visit the FCC website at www.fcc.gov.

Support Mechanism Charges

Your total monthly contribution is determined by multiplying one-third of your adjusted quarterly contribution base by the current quarter's FCC contribution factor.

$$\frac{1/3}{1/3} * \frac{\text{Adjusted Quarterly Contribution}}{\text{Adjusted Quarterly Contribution}} = \frac{\text{Total Monthly Contribution}}{\text{Total Monthly Contribution}}$$



Filer 499 ID: 831535
 Invoice Number: UBDI0000846007
 Statement Date: 05/20/2016

LATE FILING SANCTION

A late filing fee (described on the reverse of the invoice) may be imposed for failing to file a Worksheet (Form 499-Q or 499-A). That late filing fee is the greater of \$100 per month or an amount computed using the rate of the U.S. prime rate (in effect on the date the applicable Worksheet is due) plus 3.5 percent multiplied against the filer's monthly contribution obligation as determined by the Administrator. The fee, included in the BALANCE DUE is a DELINQUENT DEBT if not paid, and subject to COLLECTION ACTION. The reverse of the Invoice provides more information.

Filing - Due Date A	Monthly USF Obligation B	Filing Received Date C	Rate D	Days/Months Delinquent E	Additional Sanction Amount F	Accrued Sanction Amount G	Total Sanction Amount (F + G) H
Apr 15 499A - 4/1/2015	\$1.28	04/22/2016	100.00/mo	13 MONTH(S)	\$1,300.00	\$0.00	\$1,300.00
Apr 14 499A - 4/1/2014	\$0.79	04/22/2016	100.00/mo	25 MONTH(S)	\$2,500.00	\$0.00	\$2,500.00
TOTAL					\$3,800.00	\$0.00	\$3,800.00



Filer 499 ID: 831535
Invoice Number: UBDI0000846007
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Interest & DCIA Penalties

A DELINQUENT DEBT incurs interest at the annual rate equal to the U.S. prime rate as of the DATE OF DELINQUENCY plus 3.5 percent from that DATE until the DEBT is paid in full. Any portion of the DEBT unpaid more than 90 days, incurs a penalty of 6 percent a year from the DATE OF DELINQUENCY. The reverse of the Invoice provides more information on interest, penalties, and administrative charges.

Description - Debt Due Date	Principal	Payment/ Credit Date	Interest Rate	Days Late	Additional Interest (B* (D/365)*E)	Accrued Interest	Total Interest (F+G)	Payment & Credits Applied	Interest Outstanding	Principal Outstanding
A	B	C	D	E	F	G	H	I	J	K
Outstanding Items										
UBDI0000846007 - 6/15/2016	\$3,800.00		0.00%	0	\$0.00	\$0.00	\$0.00		\$0.00	\$3,800.00
					<u>\$0.00</u>			<u>\$0.00</u>	<u>\$0.00</u>	<u>\$3,800.00</u>
								Principal Outstanding		\$3,800.00
								Interest & Penalties		\$0.00
								Total Amount Due		<u>\$3,800.00</u>

Exhibit C

NextMetro, LLC d/b/a BroadAspect, WC Docket No. 06-122, Exhibit C

From: Form499 <form499@usac.org>
Date: December 17, 2015 at 3:15:05 PM EST
To: "'mail@commmlawgroup.com'" <mail@commmlawgroup.com>
Cc: "'cchamberlain@broadaspect.com'" <cchamberlain@broadaspect.com>
Subject: NextMetro, LLC. d/b/a BroadAspect (Filer 831123)

Dear Joanna G. Wallace:

According to NextMetro, LLC's 2009-2015 FCC Form 499-A worksheets, NextMetro, LLC provides interconnected VoIP services. As you may be aware, the FCC has extended Telecommunications Reporting Worksheet obligations to providers of interconnected VoIP services.¹ Moreover, the FCC Form 499-A instructions require all interconnected VoIP providers, even those that qualify for *de minimis* status, to file the FCC Form 499-A.² Similarly, meeting the government and/or systems integrator exception in the FCC Form 499-A instructions for contributing to the universal service support mechanisms does not negate the requirement of all providers of interconnected VoIP to file the form. In other words, although under the systems integrator exception, NextMetro, LLC is not required to contribute to the universal service support mechanisms, as an interconnected VoIP provider, the FCC has indicated that it still must file an annual FCC Form 499-A.³ Further, although NextMetro, LLC's notice of withdrawal of 2009-2015 FCC Form 499As implies that it does not contribute to TRS, LNP or NANPA, the FCC's rules and orders indicate that NextMetro, LLC may have a contribution obligation to one or more of these funds.⁴

Therefore, in the future, to ensure that NextMetro, LLC meets its FCC Form 499-A filing obligations, but still receives the benefit of the systems integrator exception, it will need to take the following steps:

- File the FCC Form 499-A accurately reporting its Interconnected VoIP revenue on line 404.4, 404.5 and/or 414.2, and designate "1" in the "Interconnected VoIP" box on line 105;
- Check the box on Line 603 indicating that NextMetro, LLC is exempt from contributing to the universal service support mechanisms; and
- Complete the explanation section of Line 603 of the FCC Form 499-A, indicating that the exemption is based on the systems integrator exception.

Since USAC received a letter indicating that NextMetro, LLC qualifies for the systems integrator exemption, USAC will exempt NextMetro, LLC from contributing to universal service support mechanisms for 2009-2015 FCC Form 499As. However, USAC will not waive the late filing fees assessed for these filings. If the company wants relief from the late filing fees, NextMetro, LLC will need to seek a waiver from the FCC.

Please let me know if you have any questions regarding this email or the procedures set forth above.

Thank you,
Tariqua

Regards,
USAC
(888) 641-8722 (ph)